

*REMARKS/ARGUMENTS*Overview

Claims 1-19 are presently pending in this application. Claims 4 and 10-18 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the inventive subject matter. Claims 1-2, 8, 11-12 and 18 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,983,686 to Lee, et al. (hereinafter "Lee"). Claims 5 and 15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Lee.

Claims 1-19 remain in this application.

The Examiner has indicated that claims 3-4, 6-7, 9-10, 13-14, 16-17 and 19 would be allowable if written in independent form including all limitations of their respective base claims and intervening claims, and if they were amended as necessary to overcome any rejections under 35 U.S.C. § 112. Applicants are appreciative of the Examiner's comments.

Rejections under 35 U.S.C. § 112

Claims 4 and 10-18 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the inventive subject matter. Applicants have amended claims 4, 10 and 14 to comply with the Examiner's rejection.

With respect to claim 11, the Examiner has stated that "the term 'the slot' lacks proper antecedent basis because applicant has not defined a case with a slot in a periphery of the case" (Office Action at ¶ 1). Applicants respectfully disagree. In fact, the preamble of claim 11 clearly provides proper antecedent basis for the slot by claiming: "A method for forming a latch in *a case having a slot in the periphery of the case...*" (emphasis added). Applicants respectfully request the withdrawal of the § 112 rejection for claim 11, and for dependent claims 12-18 to the extent the rejection is based on these grounds.

Rejections under 35 U.S.C. § 102

Claims 1-2, 8, 11-12 and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lee. Claim 1 is an independent claim to an apparatus while claims 2 and 8

are dependent on claim 1. Claim 11 is an independent claim to a method while claims 12 and 18 depend on claim 11. Applicants respectfully argue that claims 1 and 11 are patentably distinguishable from Lee. MPEP § 706.02(b). Each of claims 1 and 11 contain an element that is not taught in Lee; Lee therefore cannot anticipate those claims. MPEP § 2131.

In particular, claims 1 and 11 each include limitations regarding 1) a latch; 2) the latch comprising a tail section; and 3) the tail section providing a spring function. Applicants submit that, to the extent Lee may disclose a latch, and the latch comprises a tail section, the tail section of Lee does not provide a spring function. Instead, Lee discloses an actual spring—separate from a tail section of a latch—to provide the spring function. The Examiner correctly noted this spring/tail section distinction in Lee: “A tail section is the section *below...the spring 6*” (Office Action at ¶ 3, emphasis added). In other words, the tail section of the latch in Lee provides absolutely no spring function, as is claimed by Applicants. In Lee, it is, in the Examiner’s words, “*with the spring*” that a spring function is provided. *Id.* Because the spring is distinct from the tail section of the latch, the tail section of Lee does not provide a spring function, and thus Lee does not teach an element of pending claims 1 and 11. Accordingly, Applicants respectfully request withdrawal of the § 102 rejections for claims 1 and 11.

Because claims 2 and 8 depend on claim 1, they incorporate all its limitations, including the limitation of a tail section providing a spring function. Similarly, claims 12 and 18 incorporate this limitation from claim 11. Thus, Applicants respectfully request the withdrawal of the § 102 rejections for claims 2, 8, 12 and 18.

Additionally, Applicants note their disagreement with respect to the rejection of claims 8 and 18 that “a pen...is considered a credit card device.” (Office Action at ¶ 4).

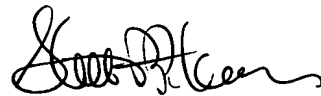
Rejections under 35 U.S.C. § 103

Claims 5 and 15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Lee. Because claims 5 and 15 depend respectively on claims 1 and 11, they incorporate all the limitations of those independent claims. As discussed above, at least some of those limitations are not disclosed in the cited art. Accordingly, Applicants respectfully request withdrawal of the § 103 rejections for claims 5 and 15.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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